

April 18, 1980

LB 965, 965A, 991

PRESIDENT: You asked for unanimous consent. Any objections? So ordered. All right, so that is 965 and 965A. That takes care of those. We will go on to LB 991, Mr. Clerk.

CLERK: Mr. President, I have a motion on 991. Senator Wesely moves to return LB 991 to Select File for a specific amendment, that amendment being to strike the enacting clause.

PRESIDENT: The Chair recognizes Senator Wesely.

SENATOR WESELY: Mr. President, members of the Legislature, I made the motion to return LB 991 to Select File to strike the enacting clause because I thought under the circumstances there needed to be raised one last time some of the concerns many members of the Legislature have about this piece of legislation. There seems to be sort of a rushed judgment so to speak here that in our haste to try and deal with a very popular solution to the drug problem we haven't seriously considered some of the ramifications of that action. First and foremost my concern is that I think the bill is unconstitutional and I believe this, not as an experienced attorney or a person familiar with the judicial system but in fact, I have to rely on the Attorney General office of the State of Nebraska to rely on their expertise to come to that conclusion and I think if any of you have taken the time to read the Attorney General's opinions concerning 991 at any of the various forms, either introduced or amendments that were proposed or in its final version which is before you today you will find that there is a consistent feeling in the Attorney General's office that this bill is unconstitutional as drafted or as proposed to be amended or as amended, it is unconstitutional. Now that has never stopped us from passing a bill in the past. I admit that that is the case but it seems to me that as a body of lawmakers we should be very concerned about the constitutionality of the bills that we pass on this floor. It seems to me that that is the first responsibility as a state legislator is to uphold the state constitution and our state Attorney General's office has, as I said, come out consistently on this bill to point out its serious constitutional defects and we have ignored them essentially. The amendments which have been added to the bill by the committee are helpful to a degree according to the Attorney General's office but they are not sufficient to deal with the fundamental constitutional problems that this bill has. Now when I was running for the Legislature or considering running for the Legislature one of the biggest problems I thought the Legislature had was that they always seemed